

The Salisbury Planning Board held its regular meeting on Tuesday, June 11, 2002, in the City Council Chambers of the Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Fred Dula, Lou Manning, Jerry Wilkes, Rodney Queen, Elaine Stiller, Sean Reid, Sandy Reitz, Jeff Smith, Len Clark, Eldridge Williams

ABSENT: Ken Mowery, Brian Miller

STAFF: Harold Poole, Patrick Kennerly, Hubert Furr, Dan Mikkelson, Patrick Ritchie, Janice Hartis

The meeting was called to order by Chairman Dula. The minutes of May 28, 2002, were approved as published.

NEW MEMBER

Mr. Len Clark was welcomed as a new member on the Planning Board, representing the extraterritorial jurisdictional area. Mr. Clark's term will expire March 30, 2005.

ZONING MAP AMENDMENTS

Z-9-02 Hilda P. Blount, Old Mocksville Road near Hawkinstown Road

Location: West side of Old Mocksville Road near its intersection with Hawkinstown Road

Size: Approximately 33,000 square feet

Existing Zoning: R-8 Single Family-8 Residential

Proposed Zoning: LOI Limited Office Institutional

(a) Chairman Dula convened a courtesy hearing on Z-9-02.

Those speaking in favor of the zoning change request:

Dr. John Blount, 108 Newcastle Circle – Wants to continue his medical practice. Due to health problems, would like to move his practice to his home where he would construct a building unobtrusive to the community. There would be very little traffic and parking would be behind the building where no one would know it was an office.

Those speaking in opposition to the zoning change request:

Henry Rufty, 1424 Old Mocksville Road – Wants the property to stay residential.

Carl Dean, 110 Yorkshire – All the property is residential. Doesn't see the need for spot zoning in a residential area. The whole area on that side of Mocksville Road, from the hospital to Ellis Crossroads, is residential. You would be spot zoning one lot for the convenience of one person.

Darlene Mason, 302 Hawkinstown Road – Leave the property residential.

On a show of hands, three people in the audience were in favor of the rezoning and seven were opposed.

The chairman closed the courtesy hearing on this case.

(b) Board Discussion:

Sean Reid – This would be a case of spot zoning. You would lose the neighborhood atmosphere once you establish a business. Traffic is going to be an issue. Can't see this fitting into the neighborhood, especially with two subdivisions close by.

Jeff Smith – Agrees with Mr. Reid. There are no nearby businesses.

Eldridge Williams – Commented that he feels Rowan Regional Medical Center is spot zoning because it sits in the midst of an entire residential area.

Jeff Smith moved to recommend denying the request. The motion was seconded by Sean Reid with all members voting AYE except Eldridge Williams who voted NAY. The motion carried.

Z-10-02 Salisbury Planning Board, Park Avenue Neighborhood – Phase 2

Location: Properties located on each side of the 600 block of East Council Street; parts of 100 and 200 blocks of North Clay Street and North Boundary Street

Size: Approximately 3.6 acres

Existing Zoning: B-6 General Business

Proposed Zoning: B-1 Office Institutional

Location: Four lots located in parts of the 200 blocks of North Clay Street and North Boundary Street

Size: 1.2 acres

Existing Zoning: B-6 General Business

Proposed Zoning: R-6 Two Family-6 Residential

Location: Properties in parts of the 400 and 500 blocks of East Council, 400 block of East Liberty, 100, 200 and 300 blocks of North Shaver, 500 and 600 blocks of Park Avenue and 300 block of North Clay

Size: Approximately 13.6 acres

Existing Zoning: R-6A Multi-Family Residential

Proposed Zoning: R-6 Two Family-6 Residential

(a) Chairman Dula convened a courtesy hearing on Z-10-02.

Those speaking in favor of the zoning change request:

None

Those speaking in opposition to the zoning change request:

Bill Ritchie, owns the carpet cleaning business located at 622 East Council Street (located in the B-6 area proposed for rezoning to B-1) - doesn't think the rezoning proposal is fair to him nor to the community; it's zoned business and is next to property zoned B-6; sees no reason to change the zoning

Wayne Allen, One on One Tree Expert located at 609 East Liberty Street (located in the B-6 area proposed for rezoning to R-6); - has made a lot of improvements to the site and feels B-6 is the appropriate zoning for the property

Dorothy Allen, 609 East Liberty Street – they have cleaned up an eyesore

On a show of hands, no one opposed the rezoning of the 13 acres from R-6A to R-6. Twelve indicated their opposition to the proposed B-6 rezoning to R-6 and B-1.

The chairman closed the courtesy hearing on this case.

(b) Board Discussion:

Rodney Queen moved to recommend rezoning the R-6A properties to R-6 as proposed and to send back to committee the B-6 area proposed for rezoning to R-6 and B-1 and invite the public to that committee meeting. The motion was seconded by Jerry Wilkes.

Jeff Smith agreed with the motion but felt there was a lot of confusion and misunderstanding in the neighborhood about the proposal for rezoning from R-6A to R-6. He felt there needed to be an opportunity for the neighbors in that area to come have a discussion with the committee so that they can fully understand what is being proposed. He asked that the rezoning be handled in two motions so the neighbors can be given a chance to better understand what is happening in the neighborhood and that the matter be handled in two separate committee meetings—one for the large residential area proposed for rezoning from R-6A to R-6 and one for the commercial area (B-6) proposed for rezoning to R-6 and B-1.

Messrs. Queen and Wilkes withdrew their motion and second. Mr. Queen then moved to send both areas back to committee for separate committee meetings. The motion was seconded by Sean Reid. Jeff Smith voted AYE and the remaining members voted NAY. The motion was denied.

Mr. Queen moved to recommend rezoning the R-6A Multi-Family Residential properties (approximately 13 acres) to R-6 Two Family Residential. The motion was seconded by Lou Manning with all members voting AYE.

Mr. Reid moved to send to the Park Avenue Study Committee the B-6 area proposed for rezoning to R-6 and B-1 for further study. The motion was seconded by Mr. Manning with all members voting AYE.

GROUP DEVELOPMENTS

G-4-99 Wendermere of Salisbury, Old Mocksville Road at Hawkinstown Road

An application has been submitted for the addition of five-foot setbacks to be applied to accessory buildings on the existing group development site plan in Phases 1 and 2. The Technical Review Committee recommends approval. On a motion by Rodney Queen, seconded by Jeff Smith, with all members voting AYE, the site plan was recommended for approval.

G-5-01 Manning Office Park, Phase 2, 1910 Jake Alexander Boulevard West

An application has been submitted for the construction of a 12,000 square foot office building. The Technical Review Committee recommends approval. On a motion by Sean Reid, seconded by Sandy Reitz, with all members voting AYE, the site plan was recommended for approval.

SUBDIVISION

S-11-96 Wendover Heights, Phase 3, Harrison Road

The developer wishes to install Phase 3 of Wendover Heights. Phases 1 and 2 were previously approved in 1998 under standards in effect at that time. New standards were adopted by City Council in 2001. These standards now require curb, gutter and sidewalks on both sides of the streets, it limits the length of streets to 800 feet and requires a planted median in cul-de-sacs. This development was caught in the transition between standards. Engineering designs for Phase 3 have already been developed and approved, the majority of the neighborhood infrastructures has been completed, and the differences in standards would be extreme for the final phase. The Technical Review Committee recommends granting relief from the new standards as mentioned above.

Jeff Smith moved to grant relief to: (a) curb, gutter and sidewalks on both sides of all new streets, (b) the maximum distance of 800 feet allowed between intersections on new streets, and (c) a planted median in the cul-de-sac on Wendover Drive. The motion was seconded by Lou Manning with all members voting AYE except Eldridge Williams who voted NAY. The motion carried.

Jeff Smith moved to reapprove the preliminary plat subdivision S-11-96 subject to standards 1 through 6 contained in a memo dated June 3, 2002, to Harold Poole from Patrick Ritchie. The motion was seconded by Rodney Queen, with all members voting AYE.

COMMITTEE REPORTS

(a) Sean Reid reported for the Legislative Committee studying the First Baptist Church's request for churches to have a longer period of time to advertise "special events." Rev. Kenneth Lance made a request at the May 28 meeting that churches have a longer period of time than the 15 days currently allocated them for special events. His request was for 30 days to announce the church's Vacation Bible School. After reviewing several sections of the Zoning Ordinance pertaining to special events, the committee felt that the church's request was a different kind of special event since it didn't fall under the categories listed in the ordinance as special events. Religious organizations could be removed and given its own set of rules and regulations, which could increase the time limit but be more restrictive in other ways. Following discussion, the committee is recommending the following:

- (1) Establish a separate category for "church special events" and still require a permit for them;
- (2) Place a maximum time period of 21 days, with a week in between "church special events;"

- (3) Place a maximum number of such banners as two per property;
- (4) Place a maximum size on each banner at 32 square feet.

Sean Reid moved to accept the committee's recommendation as listed above. The motion was seconded by Rodney Queen with all members voting AYE.

(b) Sean Reid reported that the Legislative Committee is also recommending an ordinance amendment to Section 9.06, Special Sign Provisions, to delete subsection (5). This subsection allows banners across East Innes Street at Town Creek. The poles that were used to extend these banners are no longer at the location mentioned, and the City has discontinued putting up these banners for various organizations due to safety reasons. This subsection is no longer needed.

Jeff Smith moved to recommend deleting subsection (5) Banners for special events of Section 9.06, Special Sign Provisions. The motion was seconded by Rodney Queen with all members voting AYE.

(c) Elaine Stiller reported for Committee 1 concerning City Council's referral on Leo Wallace's request to retain use of a ground sign at Salisbury Mall Cinema which has been closed beyond the 60-day time limit. The area where the Salisbury Mall Cinema is located is zoned B-7 Limited Office Institutional which allows signs to be a maximum of 35 square feet in area and 10 feet in height. The existing sign is 210 square feet. With the city's commitment to Salisbury 2020 and with the streetscape plan that has been developed for U. S. 70, the committee is recommending that no change be made in the Zoning Ordinance that would extend the allowable period of time from the existing 60 days, noting that this provision has been a part of our ordinance since the sign ordinance was approved in 1986—a period of 16 years.

Leo Wallace commented that the building which the sign represents is located 300 feet from the highway. Westbound traffic on U. S. 70 cannot enter the property due to the median. He also pointed out a precedent for the continuation of nonconforming signs. McDonald's on East Innes was closed for eight months while the building was torn down and a new building constructed. The McDonald's sign, which is nonconforming, was allowed to remain.

Harold Poole stated that it has been determined the former cinema business has been closed since December 28, 2001. Mr. Wallace appeared before City Council about the situation on April 2, 2002. This is a period of 95 days—well in excess of the 60 days allowed. Mr. Poole said that it would take a zoning ordinance text amendment to change the 60-day time limit to something greater than 95 days in order to make the sign conforming. The committee considered this option and felt this would not be fair to those who have abided by the 60-day provision the previous 16 years and could potentially affect others in the future who may be abandoned, discontinued and obsolete signs. The sign ordinance has been working pretty well over the last 16 years.

Chairman Dula felt the 60-day time limit is not adequate. He agreed with Mr. Wallace that this is a peculiar piece of property. The sign ordinance has done great things, but in this instance will cause problems for the owner.

Lou Manning asked whether another theater could occupy the building, use the same name as the previous theater which is on the sign, and keep the present sign. Mr. Poole indicated that would not be allowed because there has been a discontinuance of use of the sign greater than 60 days. The sign cannot be used.

Jeff Smith also felt 60 days is not enough time between the end of a business to the reopening of another business. It's hard to go from one period to another in 60 days. He feels a change should be made to extend the 60-day time frame. However, changing the time frame still will not help Mr. Wallace in this instance. Whoever leases the property will probably change the name of the theater, which means the sign will have to come down because it is a nonconforming sign due to its size being larger than allowed in the B-7 district.

Mr. Wallace stated he feels sure the name will be changed. What he is asking of the Board is leniency in the requirements the same given to McDonald's when they were closed eight months for remodeling but got to keep their nonconforming sign. All prospective tenants of the closed theater have indicated they would need to keep the present sign due to the theater being off the highway 300 feet.

Elaine Stiller moved to accept the committee recommendation to deny changes to the Zoning Ordinance to extend the allowable period of time from the existing 60 days. The motion was seconded by Sandy Reitz. Those voting AYE were Stiller, Reitz, Manning and Wilkes. Those voting NAY were Smith, Clark, Dula, Reid, Queen, and Williams. The motion was denied.

Jeff Smith moved to send the matter back to a committee for further study. Sean Reid seconded the motion with all members voting AYE. The matter was referred to the Legislative Committee (Reid, Smith, Miller, Stiller) with Committee 1 (Stiller, Williams, Manning, Reitz) urged to attend the meeting.

(d) Sean Reid reported that the Legislative Committee and Committee 3 had met to discuss the Downtown Salisbury, Inc., request to change and made additions in signage for the B-5 Central Business District. The committee would next like to meet with Randy Hemann, Executive Director of DSI, to get an understanding of the proposed changes he is requesting before making any recommendations.

(e) Harold Poole informed the Board about the Charlotte-Mecklenburg Planning Commission's Planning 101 educational sessions they are holding on June 4 and June 18. Several Board members indicated they would like to attend to observe how their session is structured, after which the Planning 101 Committee can begin planning a similar session for Salisbury citizens.

There being no further business to come before the Board, the meeting was adjourned.

Secretary

Chairman